HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

W.A.No.1308 of 2006

Between

A.Guru Murthy and others ..Appellants

AND

Dasari Sanyasaiah Shetty and others ..Respondents

:: JUDGMENT ::

Counsel for the appellant	Sri V.Venkata Ramana
Counsel for respondents 1 & 2	Sri Ghanta Rama Rao
Counsel for respondents 3 to 5	Assistant Government Pleader for Revenue

15.12.2006

Per G.S.Singhvi, CJ

This appeal is directed against order dated 27.11.2006 passed by the learned Single Judge in WPMP. No.28247 of 2006 in Writ Petition No.22251 of 2006, whereby he suspended the operation of order dated 25.5.2006 passed by respondent No.4 in Inam Case AIP No.1041A/2004 SDT.

In the writ petition filed by them, respondent Nos.1 and 2 have challenged order dated 25.5.2006 passed by Special Deputy Tahsildar (Inams) , Visakhapatnam (respondent No.3 herein), vide which the officer declared the appellants as inamdars and granted ryotwari patta to them under Section 7(1) of the Andhra Pradesh (Andhra Area) Inams [Abolition and Conversion into Ryotwari) Act, 1956 (for short, 'the Act') on the ground of violation of the rules of natural justice and also on the ground that respondent No.3 did not have the jurisdiction to entertain the claim made by non-petitioners No.3 to 5. Along with the writ petition, respondent Nos.1 and 2 filed an application for suspending the operation of order dated 25.5.2006.

After considering the pleadings of the writ petition and going through the records produced by the Assistant Government Pleader, the learned Single Judge passed the impugned order because he found that there was interpolation in the records.

Sri V.Venkata Ramana, learned counsel for the appellants argued that the learned Single Judge gravely erred by entertaining the writ petition ignoring the fact that the writ petitioners have an effective alternative remedy of appeal under Section 7(2) of the Act. He further argued that even if the learned Single Judge felt that the writ petition

filed by respondents 1 and 2 required detailed consideration, there was no valid ground or justification for suspending the operation of order dated 25.5.2006 passed by respondent No.4, because the same has the effect of depriving the appellants of the legitimate right acquired on the basis of ryotwari pattas. Learned counsel submitted that the elements of balance of convenience and irreparable injury were clearly against grant of interim relief and the learned Single Judge gravely erred by entertaining the prayer of respondents 1 and 2. Sri Venkata Ramana further submitted that before ordering suspension of order dated 25.5.2006 on the ground of interpolation in the records, the learned Single Judge ought to have called upon Smt.C.V.Ramani, the then Special Deputy Tahsildar (Inams) , Visakhapatnam, who was impleaded as a party to the writ petition by name.

Sri Ghanta Rama Rao, learned counsel for respondents 1 and 2 lamented that the appellants have made an attempt to mislead the Court by deliberately not producing the record which his clients had placed before the learned Single Judge. He then argued that the order under challenge was passed by the learned Single Judge after giving full opportunity to the appellants and the learned Assistant Government Pleader for Revenue (General-A) to examine the record and to make their respective submissions. Sri Rama Rao then invited our attention to the document marked as Ex.P.22 which is a copy of notice issued in Form V under Rule 5 of the Andhra Pradesh Inams [Abolition and Conversion into Ryotwari) Rules (for short, 'the Rules') to show that the officer concerned made interpolations suggesting that notice had been duly served on respondents 1 and 2. He then submitted that the learned Single Judge passed the interim order after satisfying himself that respondent No.4 had fabricated the

record which facilitated the grant of ryotwari pattas to the appellants.

The learned Government Pleader submitted that the issues raised in the writ petition filed by respondents 1 and 2 can appropriately be gone into by the appellate authority before whom, an appeal ought to have been filed by the petitioners under Section 7(2) of the Act. She, however, fairly admitted that the original records produced before the learned Single Judge did show interpolation in Form V.

We have considered the respective submissions and have gone through the record of the writ petition which the Registry of the Court has placed before us. We have also carefully examined the xerox copy of Form V which is marked as Ex.P.22.

Since the issues raised in the writ petition are yet to be adjudicated by the learned Single Judge which would necessarily include objection taken by official and private respondents to the very maintainability of the writ petition on the premise that an effective alternative remedy is available to the writ petitioners under Section 7(2) of the Act, we do not consider it proper to express any opinion on the merits of the case. However, after having ourselves perused the record, we are convinced that the learned Single Judge did not commit any error by suspending the operation of order dated 25.5.2006.

Undoubtedly, that document marked Ex.P.22 contains interpolation. Who has made the interpolation and why it has been made is a matter which will be considered by the learned Single Judge, but the very factum of interpolation strongly supports the case set up by respondent Nos.1 and 2 that the order impugned in the writ petition was passed without giving them notice and opportunity of hearing.

The rule that the High Court will not entertain a writ petition

under Article 226 of the Constitution of India if an effective alternative remedy is available to the writ petitioner is one of the several rules of self-imposed restraint evolved by the superior courts for exercise of power by the High Court under Article 226 of the Constitution of India. However, there is nothing in the language of Article 226 of the Constitution from which it can be inferred that availability of an alternative remedy of appeal etc. operates as a constitutional bar to the entertaining of the writ petition. Therefore, it is not possible to find any patent error in the exercise of discretion of the learned Single Judge to entertain the writ petition filed by respondents 1 and 2 for quashing order dated 25.5.2006 because he felt prima facie convinced that the said order is an end product of manipulations made by respondent N.4 herein, who, in the opinion of the learned Single Judge, seems to have fabricated the record.

In the premise aforesaid, we do not find any valid ground or justification to tinker with the discretion exercised by the learned Single Judge to suspend the operation of order dated 25.5.2006 passed by respondent No.4.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP.No.2775 of 2006 filed by the appellants is also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

15-12-2006

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